Department of Defense
DIRECTIVE

NUMBER 7050.06
July 23, 2007

IG, DoD

SUBJECT: Military Whistleblower Protection

References: (a) DoD Directive 7050.6, subject as above, June 23, 2000 (hereby canceled)
(b) Title 10, United States Code
(c) Directive-type Memorandum, "Military Whistleblower Protection," December 6, 2004 (hereby superseded)
(d) Title 5, United States Code
(e) through (g), See Enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues Reference (a) to update policy and responsibilities for military whistleblower protection under section 1034 of Reference (b).

1.2. Includes a definition of the term "chain of command" to clarify that any person in a member of the Armed Forces' chain of command, including the supervisory and rating chain, may receive a protected communication.

1.3. Supersedes Reference (c).

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components").

3. DEFINITIONS

Terms used in this Directive are defined in Enclosure 2.

4. POLICY

It is DoD policy that:

4.1. Members of the Armed Forces shall be free to make a protected communication.

4.2. No person shall restrict a member of the Armed Forces from making lawful communications to a Member of Congress or an Inspector General (IG).

4.3. Members of the Armed Forces shall be free from reprisal for making or preparing to make a protected communication.

4.4. No person may take or threaten to take an unfavorable personnel action, or withhold or threaten to withhold a favorable personnel action, in reprisal against any member of the Armed Forces for making or preparing to make a protected communication.

4.5. The Secretaries of the Military Departments shall issue general regulations making punishable under Article 92, Uniform Code of Military Justice (UCMJ), "Failure to Obey Order or Regulation," any violation of the prohibitions of paragraphs 4.2. and 4.4. by persons subject to the UCMJ, Chapter 47 of title 10, United States Code (U.S.C.) (Reference (b)).

4.6. The Heads of the DoD Components shall ensure that any violation of the prohibitions of paragraphs 4.2. and 4.4. by civilian employees under their respective jurisdictions may constitute the basis of appropriate disciplinary action under regulations governing civilian employees.

4.6.1. Civilian appropriated fund employees are subject to the provisions of Chapters 75 and 99 of title 5 U.S.C. (Reference (d)).

4.6.2. Civilian nonappropriated fund employees are subject to the provisions of DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," (Reference (e)).

4.7. No investigation is required when a member or former member of the Armed Forces submits a complaint of reprisal to an authorized IG more than 60 days after the date that the member became aware of the personnel action that is the subject of the allegation. An authorized IG receiving a complaint of reprisal submitted more than 60 days after the member became aware of the personnel action at issue may, nevertheless, consider the complaint based on compelling reasons for the delay in submission or the strength of the evidence submitted.

5. RESPONSIBILITIES

5.1. The Inspector General of the Department of Defense (IG DoD) shall investigate, or oversee DoD Component IG investigations of allegations that the prohibitions of paragraphs 4.2.

and 4.4. have been violated. To ensure compliance with this Directive and section 1034 of Reference (b) the IG DoD shall:

5.1.1. Expeditiously determine whether there is sufficient evidence to warrant an investigation of an allegation submitted to the IG DoD or to a DoD Component IG, other than a Military Department IG, by a member or former member of the Armed Forces that the prohibitions of paragraphs 4.2. and 4.4. have been violated.

5.1.2. Receive notification from a Military Department IG of all reprisal and/or restriction allegations submitted to them by members or former members of the Armed Forces and expeditiously notify the Military Department IG concerned of decisions to retain such allegations for investigation.

5.1.3. Review and approve the determination by a Military Department IG that investigation of an allegation submitted to an IG within the Military Department concerned is not warranted.

5.1.4. Expeditiously initiate, or request the DoD Component IG to initiate, an investigation when it has been determined that investigation of an allegation is warranted. When the IG DoD requests a DoD Component IG to conduct an investigation, ensure that the DoD Component IG conducting the investigation is outside the immediate chain of command (as established under DoD Component regulations) of the member or former member submitting the allegation(s) and the individual(s) alleged to have taken the reprisal action.

5.1.5. Review and approve the results of investigations into allegations of violations of paragraphs 4.2. and 4.4. conducted by DoD Component IGs. Initiate a follow-up investigation to correct inadequacies, or ensure that the DoD Component IG concerned corrects them, if the review determines that an investigation is inadequate.

5.1.6. Issue a report of investigation within 180 days of the receipt of an allegation of reprisal and/or restriction investigated by the IG DoD. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the investigation, and summaries or transcripts of interviews conducted. The report may include a recommendation(s) as to the disposition of the complaint. If a determination is made that the report cannot be issued within 180 days, notify the Deputy Under Secretary of Defense for Program Integration (DUSD(PI)) under the Under Secretary of Defense for Personnel and Readiness, and the member or former member of the reasons for the delay and when that report will be issued.

5.1.7. Notify the DUSD(PI) of the results of the investigation of the allegations of reprisal conducted by the IG DoD and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. A copy of the documents acquired during the investigation and summaries or transcripts of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report and supporting documents, if requested, released to the member or former

member shall include the maximum disclosure of information possible except what is not required to be disclosed under section 552 of Reference (d).

5.1.8. Advise the member or former member concerned that he or she may request review of the matter by the Board for Correction of Military Records (BCMR) concerned.

5.1.9. At the request of a BCMR:

5.1.9.1. Submit a copy of the report of investigation to the BCMR.

5.1.9.2. Gather further evidence.

5.1.10. Conduct, or request a DoD Component IG to conduct, a separate investigation of the allegation(s) contained in the protected communication when:

5.1.10.1. Such an investigation has not been initiated; or

5.1.10.2. An investigation of the allegation(s) contained in the protected communication has been conducted and the IG DoD determines the investigation was biased or inadequate.

5.1.11. When an investigation under subparagraph 5.1.10. is required, notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegation, relevant documents acquired during the investigation, and summaries of interviews taken. A copy of the documents acquired during the investigation and summaries of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under section 552 of Reference (d).

5.2. The DUSD(PI), under the Under Secretary of Defense for Personnel and Readiness, shall:

5.2.1. Receive reports on the results of investigations conducted under this Directive and section 1034 of Reference (b).

5.2.2. On behalf of the Secretary of Defense, within 90 days of receipt of a request submitted under Enclosure 3, section E3.3., review the final decision of the Secretary of the Military Department concerned on applications for correction of military records decided under this Directive and section 1034 of Reference (b), and decide whether to uphold or reverse the decision of the Secretary of the Military Department concerned. The decision on behalf of the Secretary of Defense is final.

5.2.3. Have access to all research, reports, investigations, audits, reviews, documents, papers, or any other material necessary to carry out the responsibilities assigned to the DUSD(PI) by this Directive.

.5.2.4. If necessary, obtain for review and request the Secretary of the Military Department concerned to comment on evidence considered by a BCMR when the Secretary of Defense is requested to reconsider the final decision of the Secretary of the Military Department.

5.2.5. Notify the IG DoD and the Military Department IG concerned of decisions made for the Secretary of Defense on requests submitted under Enclosure 3, section E3.3. and issue such DoD procedures as may be necessary to implement this section and the requirements of Enclosure 3, section E3.3.

5.3. The Secretaries of the Military Departments shall:

5.3.1. Ensure that consideration of all military whistleblower allegations submitted under section 1034 of Reference (b) are thorough, objective, and timely, and that corrective actions are taken promptly.

5.3.2. Ensure that their respective Military Department IGs:

5.3.2.1. Establish internal procedures for receiving, reporting, and investigating, under this Directive and section 1034 of Reference (b), allegations that the prohibitions of paragraphs 4.2. and 4.4. have been violated.

5.3.2.2. Notify the IG DoD within 10 working days of receiving any allegation that the prohibitions of paragraphs 4.2. and 4.4. have been violated and provide a copy of the written complaint to the IG DoD. When an allegation of reprisal and/or restriction is made against a senior official of the Department of Defense, the provisions of DoD Directive 5505.06 (Reference (f)) shall also apply.

5.3.2.3. Expeditiously determine whether there is sufficient evidence to warrant an investigation of an allegation that the prohibitions of paragraphs 4.2. and 4.4. have been violated.

5.3.2.4. Forward to the IG DoD for review any determination that there is not sufficient evidence to warrant investigation of a reprisal and/or restriction allegation. If the IG DoD concurs with the determination of the Military Department IG concerned that there is not sufficient evidence to warrant investigation of the reprisal and/or restriction allegation, the Military Department IG concerned shall so notify the member making the allegation.

5.3.2.5. Expeditiously initiate an investigation, when it has been determined that an investigation is warranted, of an allegation that the prohibitions of paragraphs 4.2. and 4.4. have been violated, or upon receiving a request from the IG DoD. Allegations of restriction under paragraph 4.2. that are received independent of allegations of reprisal may be investigated using applicable DoD component regulations. Reports of investigation of such allegations shall be forwarded to the IG DoD for approval.

5.3.2.6. Provide the IG DoD with the report of investigation within 180 days of receiving the allegation of reprisal from the member or receiving a request from the IG DoD. The report shall include a thorough review of the facts and circumstances relevant to the allegations, relevant documents acquired during the investigation, and summaries or transcripts of interviews conducted. The report may include a recommendation as to the disposition of the complaint. If the Military Department IG makes a determination that the report cannot be issued within 180 days, notify the IG DoD, DUSD(PI), and the member or former member of the reason(s) for the delay and when the report will be issued.

5.3.2.7. Notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after the IG DoD approves the report of investigation. A copy of the documents acquired during the investigation and summaries or transcripts of witness testimony shall be transmitted to the member or former member if he or she requests them. The copy of the report, and supporting documents, if requested, released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under section 552 of Reference (d).

5.3.2.8. Advise the member or former member concerned that he or she may request review of the matter by a BCMR.

5.3.2.9. At the request of a BCMR:

5.3.2.9.1. Submit a copy of the report of investigation to the BCMR.

5.3.2.9.2. Gather further evidence.

5.3.2.10. Conduct a separate investigation into the allegations contained in the member's protected communication when:

5.3.2.10.1. Such an investigation has not been initiated; or

5.3.2.10.2. An investigation of the allegation(s) contained in the protected communication has been conducted and the Military Department IG concerned determines the investigation was biased or inadequate.

5.3.2.10.3. The IG DoD requests the investigation be conducted.

5.3.2.11. When an investigation under subparagraph 5.3.2.10. is required, notify the DUSD(PI) of the results of the investigation and provide a copy of the report of investigation to the member or former member not later than 30 days after completion of the investigation. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the investigation, and summaries or transcripts of interviews taken. A copy of the documents acquired during the investigation and summaries or transcripts of witness testimony shall be transmitted to the member or former

member if he or she requests them. The copy of the report released to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under section 552 of Reference (d).

5.3.2.12. Ensure that the subject(s) of the investigation of an allegation of reprisal and/or restriction conducted under this Directive are afforded procedural protections, including the opportunity to present matters in their behalf, incident to administrative or disciplinary action, under DoD Component regulations or other established administrative procedures governing such action.

5.3.2.13. Publicize the content of this Directive to ensure that members of the Armed Forces and other DoD personnel fully understand its scope and application.

5.3.3. Based on the IG report of investigation, take corrective action to include providing assistance to members preparing an application to a BCMR when implementation of the recommendations of the report requires action by a BCMR. Notify the IG DoD of corrective action taken within 10 working days of taking such action.

5.3.4. Ensure that the BCMR shall:

5.3.4.1. Consider applications for the correction of military records at the request of a member or former member, or otherwise, who alleged that the prohibitions of paragraphs 4.2. and 4.4. have been violated.

5.3.4.2. In resolving such an application:

5.3.4.2.1. Review the report by the IG under subparagraphs 5.1.6., 5.3.2.6., and 5.4.1.3.

5.3.4.2.2. Request the IG DoD or the Military Department IG concerned to gather further evidence if needed.

5.3.4.2.3. Receive oral arguments, examine and cross-examine witnesses, take depositions as necessary, and, if appropriate, conduct a hearing. If a hearing is held, the requirements of Enclosure 3, section E3.2., shall apply.

5.3.4.2.4. If the BCMR determines that a personnel action was in reprisal under this Directive and section 1034 of Reference (b), it may recommend to the Secretary of the Military Department concerned that disciplinary action be taken against the individual(s) responsible for such personnel action.

5.3.5. Issue a final decision on an application submitted to the BCMR under this Directive within 180 days after the application is filed. If the Secretary of the Military Department concerned fails to issue a final decision within that time, the member or former member shall be deemed to have exhausted the administrative remedies under Section 1552 of Reference (d).

5.3.6. Advise the member or former member that he or she may request review of the matter by the DUSD(PI) on behalf of the Secretary of Defense, under section 5.2. and Enclosure 3, section E3.3., and that such a request must be made within 90 days of receipt of a decision by the Secretary of the Military Department concerned on the matter.

5.3.7. Order such action, consistent with the limitations in sections 1552 and 1553 of Reference (d), to correct the record of a personnel action prohibited by the policy above.

5.3.8. Notify the IG DoD and the Military Department IG concerned of a decision on an application for the correction of military records received from a member or former member of the Armed Forces under this Directive.

5.4. The Heads of the DoD Components (other than the Secretaries of the Military Departments) shall:

5.4.1. Ensure that DoD Component IGs (as applicable):

5.4.1.1. On receipt of an allegation from a military member that the prohibitions of paragraphs 4.2. and 4.4. have been violated, advise the member that the allegation shall be forwarded to the IG DoD.

5.4.1.2. Forward the allegation to the IG DoD for determination of whether investigation of the allegation is warranted. When an allegation of reprisal and/or restriction is made against a senior official of the Department of Defense, the provisions of DoD Directive 5505.06 (Reference (f)) shall also apply.

5.4.1.3. At the request of the IG DoD, investigate the allegation that the prohibitions of paragraphs 4.2. and 4.4. have been violated and provide the IG DoD the report of investigation within 180 days of the request. The report shall include a thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the investigation, and summaries or transcripts of interviews conducted. The report may include a recommendation as to the disposition of the complaint. The copy of the report submitted to the IG DoD for release to the member or former member shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of Reference (d).

5.4.1.4. At the request of the IG DoD, investigate the allegation(s) contained in the member's protected communication. The report of investigation shall include a thorough review of the facts and circumstances relevant to the allegation(s), relevant documents acquired during the investigation, and summaries or transcript of interviews conducted. The report may include a recommendation as to the disposition of the complaint. A copy of the report for release to the member or former member shall be submitted to the IG DoD not later than 30 days after completion of the investigation, and shall include the maximum disclosure of information possible except what is not required to be disclosed under Section 552 of Reference (d).

5.4.2. Based on the IG report of investigation, take corrective action to include providing assistance to members preparing an application to the BCMR concerned when implementation of the recommendations of the report requires action by a BCMR. Notify the IG DoD of corrective action taken within 10 working days of taking such action.

5.4.3. Ensure that the subject(s) of the investigation of an allegation of reprisal and/or restriction conducted under this Directive are afforded procedural protections, including the opportunity to present matters in their behalf, incident to administrative or disciplinary action, under DoD Component regulations or other established administrative procedures governing such action.

5.4.4. Publicize the content of this Directive to ensure that members of the Armed Forces and other DoD personnel fully understand its scope and application.

6. EFFECTIVE DATE

This Directive is effective immediately.

Gordon England

Enclosures - 3
E1. References (continued)
E2. Definitions
E3. Information Requirements

E1. ENCLOSURE 1

REFERENCES, (continued)

(e) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 1988
(f) DoD Directive 5505.06, "Investigations of Allegations Against Senior Officials of the Department of Defense," April 10, 2006
(g) DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997

E2. ENCLOSURE 2

DEFINITIONS

E2.1. Audit, Inspection, Investigation, or Law Enforcement Organizations. The Office of the Inspector General of the Department of Defense, the U.S. Army Audit Agency, the Naval Audit Service, the Air Force Audit Agency, and the Defense Contract Audit Agency. The law enforcement organizations at any command level in any of the DoD Components, the Defense Criminal Investigative Service, the U.S. Army Criminal Investigation Command, the Naval Criminal Investigative Service, and the Air Force Office of Special Investigations.

E2.2. Board for Correction of Military Records (BCMR). Any board empowered under Section 1552 of Reference (d) to recommend correction of military records to the Secretary of the Military Department concerned.

E2.3. Chain of Command. For the purposes of this Directive includes not only the succession of commanding officers from a superior to a subordinate through which command is exercised, but also the succession of officers, enlisted or civilian personnel through which administrative control is exercised including supervision and rating of performance.

E2.4. Corrective Action. Any action deemed necessary to make the complainant whole; changes in Agency regulations or practices; administrative or disciplinary action against offending personnel; or referral to the U.S. Attorney General or court-martial convening authority of any evidence of criminal violation.

E2.5. Inspectors General (IGs)

E2.5.1. The IG of the Department of Defense.

E2.5.2. The Military Department IGs. These include the IG of the Army; the Naval IG; the IG of the Air Force; and the Deputy Naval IG for Marine Corps Matters.

E2.5.3. The IGs within the Military Departments. These include the IGs named in subparagraph E2.5.2. and IGs assigned or detailed under regulations of the Secretary concerned to serve at any command level in one of the Armed Forces.

E2.5.4. DoD Component IGs (other than Military Department IGs). These include the IGs assigned or detailed at any command level in one of the DoD Components other than the Military Departments.

E2.5.5. An IG appointed under Appendix III of Reference (d).

E2.6. Member of Congress. In addition to a Senator or Representative, or a member of a Senator's or Representative's staff or of a congressional committee, includes any Delegate or Resident Commissioner to the Congress.

E2.7. Member or Former Member of the Armed Forces. All Regular and Reserve component officers (commissioned and warrant) and enlisted members of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (when it is operating as a Military Service in the Navy) on active duty; and Reserve component officers (commissioned and warrant) and enlisted members in any duty or training status (includes officers and enlisted members of the National Guard).

E2.8. Personnel Action. Any action taken on a member of the Armed Forces that affects, or has the potential to affect, that military member's current position or career. Such actions include a promotion; a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards, or training; referral for mental health evaluations under DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces" (Reference (g)); and any other significant change in duties or responsibilities inconsistent with the military member's rank.

E2.9. Protected Communication

E2.9.1. Any lawful communication to a Member of Congress or an IG.

E2.9.2. A communication in which a member of the Armed Forces communicates information that the member reasonably believes evidences a violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination, gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety, when such communication is made to any of the following:

E2.9.2.1. A Member of Congress, an IG, or a member of a DoD audit, inspection, investigation, or law enforcement organization.

E2.9.2.2. Any person or organization in the chain of command; or any other person designated pursuant to regulations or other established administrative procedures to receive such communications.

E2.10. Reprisal. Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making or preparing to make a protected communication.

E2.11. Restriction. Preventing or attempting to prevent members of the Armed Forces from making or preparing lawful communications to Members of Congress and/or an IG.

E2.12. Senior Official. Active duty, retired, Reserve, or National Guard military officers in grades O-7 and above, or selected for promotion to grade O-7; current or former members of the Senior Executive Service; other current and former DoD civilian employees whose positions are deemed equivalent to that of a member of the Senior Executive Service (e.g., Defense Intelligence Senior Executive Service employees, Senior Level employees, and nonappropriated fund senior executives); and current and former presidential appointees.

E2.13. Unlawful Discrimination. Discrimination on the basis of color, national origin, race, religion, or sex, as set forth in Section 1034 of Reference (b).

E2.14. Whistleblower. For the purpose of this Directive, a member of the Armed Forces who makes or prepares to make a protected communication.

E3. ENCLOSURE 3

INFORMATION REQUIREMENTS

E3.1. FILING A COMPLAINT OF REPRISAL

Members or former members of the Armed Forces may submit complaints of reprisal (as defined in Enclosure 2, definition E2.10.) to the IG DoD or to an IG within a Military Department. Complaints of reprisal made to DoD Component IGs other than the IG DoD or an IG within a Military Department shall be forwarded to the IG DoD.

E3.1.1. Time Limits. No investigation is required when a member of the Armed Forces submits a complaint of reprisal to an authorized IG more than 60 days after the date that the member became aware of the personnel action that is the subject of the allegation. An authorized IG receiving a complaint of reprisal submitted more than 60 days after the member became aware of the personnel action at issue may consider the complaint for good cause shown.

E3.1.2. Address. Complaints of reprisal to the IG DoD may be made by telephone at (800) 424-9098, by email at hotline@dodig.mil, or by letter addressed as follows:

The Inspector General of the Department of Defense Office
ATTENTION: Defense Hotline
1900 Defense Pentagon
Washington, DC 20301-1900

E3.1.3. Content of Complaint. The complaint should include the following information.

E3.1.3.1. Member's full name, rank, duty status, duty title, organization, duty location, work and residence telephone numbers, and mailing and email addresses.

E3.1.3.2. A copy of the protected communication (as defined in Enclosure 2, definition E2.9.) and any reply about the matter. If a copy is not available, include the date of the protected communication; to whom the protected communication was made; the content of the protected communication; and whether the matter was investigated, when, and by whom.

E3.1.3.3. Identify the personnel action(s) (as defined in Enclosure 2, definition E2.8.) taken, withheld, or threatened to be taken or withheld. Provide documentation for the personnel action. If unavailable, describe the personnel action and the date of the action.

E3.1.3.4. Provide to the extent possible the full name, rank and/or grade, duty title, duty status, organization, duty location, and commercial or DSN telephone number of the officials responsible for signing, taking, recommending, or influencing the personnel action at issue. Indicate why and how any responsible official involved in the personnel action knew of the protected communication.

E3.1.3.5. Identify key witnesses that can support the reprisal complaint, and include telephone numbers to contact the witnesses.

E3.1.3.6. For additional guidance, visit the DoD Hotline web site at www.dodig.mil/hotline/index.html.

E3.2. HEARING HELD BY A BCMR

If a BCMR elects to hold an administrative hearing under subparagraph 5.3.4.2.3. of this Directive, the member or former member who filed the application:

E3.2.1. May be represented by a judge advocate if all of the following conditions exist:

E3.2.1.1. The IG investigation finds there is probable cause that a personnel action was in reprisal for a member of the Armed Forces making or preparing a protected communication.

E3.2.1.2. The Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case.

E3.2.1.3. The member is not represented by outside counsel retained by the member.

E3.2.2. May examine witnesses through depositions, serve interrogatories, and request the production of evidence, including evidence in an IG investigative record not included in the report released to the member or former member.

E3.3. APPEAL TO THE SECRETARY OF DEFENSE

A member or former member of the Armed Forces who has filed an application for the correction of military records under section 1034 of Reference (b) alleging reprisal for making or preparing a protected communication may request review by the Secretary of Defense of the final decision of the Secretary of the Military Department concerned on such application under this section and subparagraph 5.2.2. of this Directive.

E3.3.1. Requests based on factual allegations or evidence not previously presented to the cognizant BCMR shall not be considered.

E3.3.2. New allegations or evidence must be submitted directly to the BCMR for reconsideration under procedures established by the BCMR.

E3.3.3. The appeal to the Secretary of Defense must be in writing and include the following:

E3.3.3.1. Member's full name, rank, duty status, duty title, organization, duty location, and commercial or DSN telephone numbers.

E3.3.3.2. A copy of the application to the BCMR and the final decision by or for the Secretary of the Military Department concerned on such application.

E3.3.3.3. A statement of the specific reasons why the member or former member is not satisfied with the decision of the Secretary of the Military Department concerned and the specific remedy or relief requested.

E3.3.4. The request for review by the Secretary of Defense must be submitted within 90 days of receipt of the final decision by or for the Secretary of the Military Department concerned.

E3.3.5. Address requests for review by the Secretary of Defense as follows:

Deputy Under Secretary of Defense for Program Integration
Attention: Director, Legal Policy
4000 Defense Pentagon
Washington, DC 20301-4000